



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 37] नई दिल्ली, बृहस्पतिवार, अगस्त 14, 1986/श्रावण 23, 1908
No. 37] NEW DELHI, THURSDAY, AUGUST 14, 1986, SRAVANA 23, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 14th August, 1986.

BILL No. 66 OF 1986

A Bill to provide for the formation of a fund for the benefit of child labourers and for their rehabilitation through education, training and specialisation in some trade or avocation.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Benefit and Rehabilitation Fund) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) 'accident' means accident arising out of or in the course of employment and includes an accident which occurs or the occupational disease which is contracted within or outside the working hours;

(b) 'child labour' means a person who is under the age of fifteen years;

Short
title,
extent and
com-
mence-
ment.

Defini-
tions.

(1)

(c) 'competent authority' means any authority authorised by the Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein;

(d) 'contractor' means a person who, in relation to a manufacturing process, undertakes to produce a given result by executing the work through contract child labour or who engages child labour for any manufacturing process in a private dwelling house and includes a sub-contractor, agent, munshi, thekedar, sattadar or the like;

(e) 'contribution' means the contribution payable in respect of child labour employed by an employer to the Child Labour Benefit and Rehabilitation Fund;

(f) 'employer' means—

(i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the Government for the supervision and control of employees or where no such person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no such person is so appointed the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person, whether called a manager, managing director managing agent, or by any other name, such person;

(g) 'establishment' means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employer for the exhibition of equestrian, acrobatic and other performances;

(v) any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of goods is being, or is ordinarily, carried on with the help of child labour;

(vi) any industrial premises, including private dwelling house, used for industrial purposes of any kind, including the precincts thereof, in which or in any part of which any industry or manufacturing process is carried on with or without the aid of power and child labour;

(h) 'fund' means the Child Labour Benefit and Rehabilitation Fund constituted under section 3;

(i) 'Government' means the Central Government;

(j) 'inspector' means an Inspector appointed under section 8;

(k) 'trustee' means a member of a board of trustees;

4 of 1936.

(l) 'wages' shall have the same meaning as assigned to them under clause (vi) of section 2 of the Payment of Wages Act, 1936.

3. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a Child Labour Benefit and Rehabilitation Fund, monies into which shall come from cess levied under sub-section (1) of section 5, which shall be managed by a board of trustees appointed under section 4.

Constitution of Child Labour Benefit and Rehabilitation Fund.

4. The board of trustees shall have one Chairman, who shall be nominated by the Government, and as many other members as are required, in the opinion of the Government, to manage the Fund but at least one-half of the members shall be elected from the representatives of organisations safeguarding the interests of child labour in the country.

Board of trustees.

5. (1) There shall be levied and collected as a cess from the employers or contractors of child labourers in their establishments, for the purposes of this Act, a contribution at the rate of twenty-five per cent of the gross wages of the child labour.

Levy and collection of cess from the employers.

(2) The cess levied under sub-section (1) shall be collected by such agencies and in such manner as may be prescribed.

6. The fund collected shall be spent on the upbringing of the child labour through free education at convenient time of the said child labour e.g. in the evening or at any such time and on vocational training in some trade, technical apprenticeship, etc., through a time bound scheme framed by a competent authority, appointed by the Government.

Application of Fund.

7. The provisions of section 6 shall be carried on under the guidance of the board of trustees, who shall constitute regional committees for the effective implementation of the scheme.

Regional Committees.

8. The Government shall appoint as many Inspectors, Welfare Administrators and such other officers and staff as it considers necessary for carrying out the purposes of this Act.

Appointment of inspectors, etc.

9. Where any employer of the child labour commits an offence of non-payment of the cess levied under this Act, he shall be liable to be punished with imprisonment for a period of six months.

Punishment.

10. The Government shall open schools and shall reserve seats in schools for free education of child labourers and the child labourers shall be provided with books, writing materials, dresses and other relevant articles free of cost.

Government to open schools, etc.

11. Any child labourer, who meets with an accident, shall be given aid from the Fund, as the board of trustees may decide taking into consideration the nature of injury suffered by the child labourer.

Aid in case of accident.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

While social security schemes have been extended to organised working class the child labour, who constitute a considerable work-force in the country, remain uncovered by such schemes. Child labour is such a shaming and depressing phenomenon that nobody views it analytically. In the same process we overlook the skill, productivity and ingenuity, so consistently displayed by the major part of our child population. This section of our country's population is also the poorest. It is, therefore, the need of the time and also in the national interest that the child labourers are provided with some insurance against accidents met during the course of their vocation as well as a scheme to rehabilitate them in life through education, vocational training, technical apprenticeship, etc. so that these children can lead a better life and are settled for a respectable living.

The Bill aims to achieve the said goal.

NEW DELHI;

ANIL BASU

March 6, 1986.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. S-38012/1/84-M.I, dated 22 May, 1986 from Shri P. A. Sangma, Minister of State of the Ministry of Labour to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Bill [The Child Labour (Benefit and Rehabilitation Fund) Bill, 1986 by Shri Anil Basu, M.P.], has in pursuance of article 117(1) of the Constitution of India, recommended the introduction of the Bill in Lok Sabha and also, in pursuance of article 117(3) of the Constitution of India, recommended the consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Child Labour Benefit and Rehabilitation Fund. Clause 4 provides for the appointment of a board of trustees for managing the Fund. Clause 5 provides for the levy and collection of a cess from the employers of child labour by agencies as may be prescribed. Clause 6 provides for the appointment of a competent authority to frame scheme for the vocational training of the child labourers. Clause 8 provides for the appointment of inspectors, etc. for carrying out the purposes of the Act. Clause 10 provides for opening of new schools for the child labourers and provision of books, etc. free of cost to them. The Bill, therefore, if enacted, would involve a recurring expenditure from the Consolidated Fund of India to the extent of about rupees one crore per annum.

A non-recurring expenditure of about rupees twenty-five lakhs is also likely to be incurred from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill provides for collection of cess levied by such agencies and in such manner as may be prescribed. Clause 12 empowers the Central Government to make rules for carrying out the purposes of the Act. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

BILL No. 87 OF 1986

A Bill further to amend the Dowry Prohibition Act, 1961.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Dowry Prohibition (Amendment) Act, 1986. Short title.

28 of 1961.

2. In section 2 of the Dowry Prohibition Act, 1961, before *Explanation II*, the following proviso shall be inserted, namely:—

Amend-
ment of
section 2.

“Provided that a payment made or ornaments given as a share to their daughter by any parent in Christian community at the time of her marriage shall not be considered as dowry for the purposes of this Act but shall be considered as share (*Avakashadhanam*).”.

STATEMENT OF OBJECTS AND REASONS

In Christian community, dowry is given as a share of the women at the time of her marriage. This is supported by the Travancore Christian Succession Act. Now by the Supreme Court decision in Mary Roy and others Vs. State of Kerala, the Indian Succession Act, 1925, is applicable to the Christian community. Hence, no amount can be paid at the time of marriage as dowry. The payments hitherto made have lost their validity. For convenience, Christians prefer to pay a share to their daughters at the time of their marriage to build a new family. This is the custom prevalent in Christian community. Hence, there is a necessity to permit the parents to pay a share to their daughters at the time of their marriage, if they so choose. This necessitates an amendment to the definition of dowry as given in the Dowry Prohibition Act, 1961.

Hence this Bill.

THAMPAN THOMAS

NEW DELHI;

July 1, 1986.

BILL NO. 85 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1986. | Short
title. |
| 2. In article 16 of the Constitution, after clause (4), the following clause shall be inserted, namely:— | Amend-
ment of
article |
| “(4A) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of disabled persons which, in the opinion of the State, are not adequately represented in the services under the State.”. | 16. |

STATEMENT OF OBJECTS AND REASONS

The disabled persons have got right for reservation of appointments in Government services. One in every ten persons is, now in one way or the other, disabled. The Asian Regional Conference of the International Labour Organisation have recommended for having reservation in the employment for the disabled persons. The disabled persons require a special treatment in the matter of appointment.

Hence this Bill.

NEW DELHI;
July 1, 1986.

THAMPAN THOMAS

BILL No. 92 OF 1986

A Bill to consolidate and amend the law applicable to intestate succession of Indian Christians.

WHEREAS it is expedient to consolidate and amend the rules of law applicable to intestate succession among Indian Christians;

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

PRELIMINARY

1. (1) This Act may be called the Indian Christian Succession Act, 1986.

Short title
and com-
mence-
ment.

(2) It shall be deemed to have come into force from 1st April, 1951.

2. The rules herein contained shall constitute the law of India applicable to all cases of intestate succession among the members of the Indian Christian community.

Appli-
cation
of Act.

Act not
to apply
in cer-
tain cases.

3. The provisions of this Act shall not apply to intestate succession to the property of:—

(a) members of the Indian Christian community who follow the Hindu law;

(b) members of the European, anglo-Indian and parnji communities;

(c) any intestacy which occurred before the date on which this Act comes into force.

Defini-
tions.

4. In this Act, unless there is anything repugnant in the subject or context—

(a) "administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor;

(b) "India" means the territory of India excluding the State of Jammu and Kashmir;

(c) "Indian Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic decent and who professes any form of the Christian religion;

(d) "minor" means any person subject to the Indian Majority Act, 1875, who has not attained his or her majority within the meaning of that Act, and any other person who has not completed the age of eighteen years;

(e) "State" includes any division of India having a court of the last resort;

(f) "share amount" also known as "Avakasadhanam" or "Shreedhanam" means and includes any money or gold ornaments or any property, movable or immovable, given or promised to be given to a girl, or on her behalf to her husband or her guardian as trustee, by her father or mother or grand-father or grand-mother, at the time of her marriage, in satisfaction of her claim against the estate of her father or mother, who dies intestate; and

(g) the terms 'son', 'daughter', 'brother', 'sister', 'lineal, document' or any other word expressing relationship must be understood only as denoting a legitimate relative.

9 of 1873.

Inter-
est and
powers
not
acquired
nor lost
by mar-
riage.

5. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried.

Law regula-
ting suc-
cession to
deceased
persons,
property

6. (1) Succession to immovable property situated in India of a deceased person who is a member of the Indian Christian community shall be regulated by this Act, wherever such person may have had his domicile at the time of his death.

(2) Succession to movable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

7. (1) The State Government may, by notification in the Official Gazette, either retrospectively or prospectively, exempt from the operation of any of the provisions of this Act, the members of any set of Christians in India or any part of such race, to whom the State Government considers it impossible or inexpedient to apply any provisions of this Act.

Power of State Government to exempt any race, Sect of tribe in the State from operation of the Act.

(2) The State Government may, by a like notification, revoke any such order, but not so that the revocation shall have retrospective effect.

8. Kindred or consanguinity is the connection or relation to persons descended from the same stock or common ancestor.

Kindred or consanguinity.

9. (1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grand father and great grand father, and so upwards in the direct ascending line; or between a man and his son, grand son, great grandson and so downwards in the direct descending line.

Lineal consanguinity.

(2) Every generation constitutes a degree, either ascending or descending.

(3) A person's father is related to him in the first degree, and so likewise his son; his grand father and grandson in the second degree; his great grand father and great grand son in the third degree.

10. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

Collateral consanguinity.

11. Degrees of kindred are computed in the manner set forth in the table of kindred set out in the Schedule and are computed as far as the sixth degree.

Mode of computing degrees of kindred.

Illustrations

(i) The person whose relatives are to be reckoned, and his cousin german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor, the grand father; and from him one of ascent to the uncle and another to the cousin-german, making in all four degrees.

(ii) A great uncle's son and great great uncle are of the same degree, being each five degrees away.

12. For the purpose of succession, there is no distinction—

(a) between those who are related to a deceased person through his father and those who are related to him through his mother; or

(b) between those who are related to a deceased person by full blood and those who are related to him by half blood; or

(c) between those who are actually born in the life time of a deceased person and those who at the time of his death were only conceived in the womb, but who have been subsequently born alive.

Persons held for the purpose of succession to be similarly related to the deceased.

No distinction between ancestral or self acquired property or between man's property or woman's property.

13. For the purpose of succession, there is no distinction between self acquired property and ancestral property, or between the property of a male and that of a female.

As to what property deceased considered to have died Intestate.

14. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations

(i) A has left no will. He has died intestate, in respect of the whole of his property.

(ii) A has left a will whereby he has appointed B as his executor; but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(iv) A has bequeathed Rs. 1000/- to B and Rs. 1000/- to the eldest son of C, and has made no other bequest; and has died leaving the sum of Rs. 2000/- and no other property. C died before A without ever having a son or daughter or wife. A has died intestate in respect of the distribution of Rs. 1000/-.

INTESTATE SUCCESSION

Widow with lineal descendants

Devolution of property.

15. The property of an intestate devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to rules hereinafter prescribed.

Explanation.—A widow is not entitled to the provision hereby made for her if, by a valid contract made before her marriage, she has been excluded from her distributive share of her husband's property.

Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred.

16. Where the intestate has left a widow—

(a) If he has also left any lineal descendants, the property of the deceased person shall be divided equally amongst the widow and the lineal descendants, according to the rules contained in the Act.

(b) If the intestate has left no lineal descendant, but has left persons who are of kindred to him, one-half of the property of the intestate shall belong to the widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules contained in the Act.

(c) If the intestate has left none who are of kindred to him, his widow shall be entitled to the whole of his property.

17. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, according to the rules contained in the Act.

Where
intestate
has left
no widow,
and where
he has
left no
kindred.

18. A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property, if he dies intestate.

Rights of
Widower.

Mother with lineal descendants

19. When the intestate has left his mother, and has also left any lineal descendants or father, the mother shall not be entitled to any share in the property of the deceased.

Mother
with inte-
state's
lineal
descendants
or his
father.

20. When the intestate has left neither lineal descendants nor father, but has left lineal descendants of the father and mother, a share equal to that of a lineal descendant of the intestate shall be allotted to the mother of the intestate.

Mother
coexis-
ting with
father's
descen-
dants.

21. When the intestate has left none of the kindreds referred to in sections 19 and 20, but has left his mother and his paternal grand father or any lineal descendants of such grand father, one half of the intestate's property shall be allotted to his mother and other half shall be divided amongst the rest.

Mother
coexis-
ting with
intestate's
grand
father or
his descen-
dants,

22. When the intestate has left none of the kindred mentioned in sections 19, 20 and 21 but has left his mother, his entire property, or if he has left a widow, the residue after deducting her share, shall belong to his mother.

Mother
coexis-
ting with
more dis-
tant
kindred.

Distribution among lineal descendants

23. When a person dies intestate his next of kin in the order set forth below shall be entitled to succeed to the residue of his property that may be left after deducting the widow's share and if he has left a mother, her share according to sections 19 to 22:

Succession
to intes-
tate's pro-
perty by
lineal des-
cendants.

Provided that the next of kin mentioned in the first group shall always be preferred to those in the second, the second to the third, and so on, in succession.

Group (i) Sons and daughters and the lineal descendants of such sons and/or daughters as shall have predeceased the intestate.

Group (ii) Father.

Group (iii) Brothers and sisters (whether of the full blood or by the same father only) and the lineal descendants of such of them as shall have predeceased the intestate.

Group (iv) Paternal grand father.

Group (v) Paternal grand mother and paternal grand father's children including such of the later as shall have predeceased the intestate leaving lineal descendants.

Group (vi) Brothers and sisters of the half blood on the mother's side and the lineal descendants of such of them as shall have died in the intestate's life time.

Group (vii) Maternal grand father.

Group (viii) Maternal grand mother and the maternal grand father's children including the lineal descendants of such of them as shall have died in the intestate's life time.

Rules of
distribu-
tion.

24. The rules for distribution of the intestate's property (after deducting the widow's or husband's share if the deceased has left a widow or a husband) amongst his or her lineal descendants, shall be those contained in sections 25 to 28.

Where
intestate
has left
child or
children
only.

25. Where the intestate has left surviving him or her a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to the surviving child, if there is only one, or shall be equally divided among all the surviving children.

Where
intestate
has left
no child,
but grand
child or
grand chil-
dren.

26. Where the intestate has not left surviving him any child but has left a grand child or grand-children and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grand children.

Where
intestate
has left
only great
grand chil-
dren or
remoter
lineal
descen-
dants.

27. In the like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great grandchildren to him, or are all in a more remote degree.

Where
intestate
leaves
lineal
descenda-
nts not all
in the same
degree of
kindred to
him, and
those
through
whom the
more re-
mote are
descended
are dead.

28. (1) If the intestate has left the lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him.

(2) One of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease: and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving

child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively, if such parent or parents had survived the intestate.

Illustrations

(i) A had three children John, Joseph and Henry, John died, leaving four children, and Joseph died leaving one child and Henry alone survived the father. On the death of A, intestate, one third is to be allotted to Henry. One third to John's four children and the remaining one third to Joseph's one child.

(ii) A left no child, but left eight grand-children, and two children of a deceased grandchild. The property is to be divided into nine parts, one of which is allotted to each grandchild and the remaining one ninth is equally divided between the two great grandchildren.

(iii) A has three children, John, Joseph and Henry; John dies leaving four children; and one of John's children dies leaving two children. Joseph dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry, one-third to Joseph's child and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining one part is equally divided between John's two grandchildren.

Distribution where there are no lineal descendants

29. Where the intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) shall be those contained in sections 30 to 36.

Rules of distribution where intestate has left no lineal descendants.

30. If the intestate's father is living, he shall succeed to the property.

Where intestate's father living.

31. If the intestate's father, is dead, but mother is living and there are also brothers and sisters living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

Where intestate's father dead, but his mother, brothers and sisters living.

Illustration

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry and a sister Mary who is the daughter of his mother but not of his father. The mother takes one-fourth, each brother takes one-fourth and Mary takes one-fourth.

Where intestate's father dead and his mother, brothers and sisters, and children of any deceased brother or sister living.

32. If the intestate's father is dead but mother is living, and if any brother or any sister and the child or children of any brother or sister who may have died in the intestate's life time are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the share which their parent would have taken if living at the time of intestate's death.

Illustration

A, the intestate, leaves his mother, his brother John and also one child of deceased brother Henry and two children of George, a deceased brother of the half blood who was the son of his father but not of his mother. The mother takes one-fourth, John takes one fourth, the child of Henry takes one fourth and the two children of George divide remaining one fourth equally between them.

Where intestate's father dead but mother living and no brother, sister, nephew or niece.

33. If the intestate's father is dead, but mother is living, and there is neither brother, nor sister, nor child of any deceased brother or sister of the intestate, the property shall belong to the mother.

Where intestate's has left neither lineal descendants nor father nor mother.

34. Where the intestate has left neither lineal descendant, nor father, nor mother, the property shall be divided equally between his brothers and sisters and the child or children of such of them as may have died before him or her, such children (if more than one) taking in equal shares only the shares which their respective parent would have taken if living at the intestate's death.

Where intestate has left neither lineal descendants, nor father, nor mother, nor brother, nor sister.

35. Where the intestate has left neither lineal descendant nor father, nor mother, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illustrations

(i) A. the intestate, has left a grandfather, and a grandmother and no other relative standing in the same or a near degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being in the third degree.

(ii) A, the intestate, has left a grandfather, or a grandmother, and uncle and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All these being in the third degree, will take equal shares.

(iii) A, the intestate, has left a great grandfather, or a great grandmother, and uncles and aunts, and no other relative standing in the same

or a nearer degree of kindred to him. All these being in the third degree, will take equal shares.

(iv) Ten children of one brother or sister of the intestate and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They will each take one-eleventh of the property of the intestate.

36. Where a distributive share in the property of a person who has died intestate is claimed by a child or any descendant of a child, of such person, other than a daughter who has received share amount at the time of marriage, no money or other property which the intestate may, during his life time, have paid, given or settled to, the child by whom or by whose descendant the claim is made shall be taken into account in estimating such distributive share.

Children's
advance-
ments not
brought
into hotch-
pot.

37. (1) For the purpose of determining the share of a woman or her lineal descendants, as the case may be, at the intestacy of her father, mother or paternal grandfather, where share amount had been given or contracted to be given to her or to her husband or his father or guardian in trust for her, by any of her aforesaid ascendants, whomsoever, the money paid as share amount and or the value of the property and ornaments or the value thereof, as on the date of the intestacy, shall be brought into hotchpot:

Share
amount
brought
into
hotchpot.

Provided that nothing in this section shall be constructed to make a woman or her lineal descendants liable to refund any portion of the share amount or its value she had received at the time of her marriage:

Provided further that when the share amount of a woman has once been brought into hotchpot, and a share given or becomes due as provided in this Act, it shall not be brought into hotchpot against any subsequent intestacy.

(2) Share amount, contracted to be given, but not paid, shall be a charge on the property of the intestate.

38. Part V, Chapter I—Preliminary and other provisions affecting succession of Indian Christians, of the Indian Succession Act, 1925 where succession is regulated by this Act, are hereby repealed with effect from 1st April, 1951.

Repeal of
Chapter I,
Part V,
and other
provisions
of Act No.
39 of 1925.

STATEMENT OF OBJECTS AND REASONS

There was no codified succession Act for the Christians in India in the nineteenth century. The case law decided as early as in 1863 by the Privy Council in Abraham Vs. Abraham laid down the principles of Christian succession in India. Thereafter the Indian Succession Act, 1865 and the Indian Succession Act, 1925 were followed by a section of the Christians. Simultaneously, there was an Act in force in the erstwhile Travancore State which is known as the Travancore Christian Succession Act of 1916. For the Christians in Cochin there was another law which is known as the Cochin Christian Succession Act. Even after the States Reorganisation Act of 1951, the Christian Community in Kerala and in other parts of India are following the Travancore Christian Succession Act. The validity of the Travancore Christian Succession Act came up for consideration in Writ Petition (Civil) Nos. 8260/83, 651-52, 657/85, 15174-79/84 and 11692/85 in Mrs. Mary Roy etc. etc. Vs. State of Kerala. The Supreme Court held that the Travancore Christian Succession Act is not in force from 1st of April 1951 and it has created an analogous situation. There is confusion and ambiguity due to this judgement.

The payments made at the time of marriage to the daughters as dowry which is considered as share of the woman in Christian Community is now prohibited under the Dowry Prohibition Act, 1961 as amended in 1984. Therefore, a codified Christian Succession Act is needed.

Hence this Bill.

NEW DELHI;
July 1, 1986.

THAMPAN THOMAS

BILL NO. 84 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title
and
commen-
cement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
article 3.

2. In article 3 of the Constitution, in *Explanation 1*, for the words 'but in the proviso, "State" does not include a Union territory', the words 'but in the proviso, "State" includes a Union territory having a Legislature' shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Article 3 of the Constitution of India provides for the formation of new States and for alteration of areas, boundaries or names of existing States.

The proviso to this article provides for the reference of Bills on the above matters to the concerned State Legislatures. But such reference to the Union territories having Legislative Assemblies is barred. This is a sheer unwarranted discrimination with the Union territories and should be done away with by adopting the proposed amendment which provides for the reference of such Bills to the Union territories having Legislative Assemblies.

SHANTARAM NAIK

NEW DELHI;
July 4, 1986.

BILL No. 91 OF 1986

A Bill to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Thirty-seventh year of the Republic of India as follows:—

Short
title
and
commence-
ment.

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2.

2. In section 2 of the Forest (Conservation) Act, 1980, before the Explanation, the following proviso shall be inserted, namely:— 69 of 1980.

“Provided that every State Government shall seek the opinion of an Advisory Committee, to be constituted by the State Government, consisting of both official as well as non-official members, constituted under rules framed by the State Government for the purpose, before seeking the approval of the Central Government under this section.”

STATEMENT OF OBJECTS AND REASONS

Matters such as of making "reserved forest" cease to be reserved and use of forest land for non-forest purposes, require a collective decision, which should be arrived at after taking different sections of people into confidence supplemented by expert-opinions. It cannot be entrusted only to the bureaucratic machinery. Whereas, the provisions of the Forest (Conservation) Act, 1980 provide for an Advisory Committee to advise the Central Government in dealing with the matters referred to by the State Governments seeking approval under section 2 of the Act, there is no provision for a similar committee to advise the State Government where, actually, a matter is conceived and prepared. Hence the proposed amendment.

SHANTARAM NAIK

NEW DELHI;
July 4, 1986.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the State Governments, before seeking the approval of the Central Government for de-reserving of reserved forests, etc., shall seek the opinion of an Advisory Committee constituted for this purpose by the State Governments. The respective State Governments will incur expenditure in constitution of such Committees from their Consolidated Funds. However, the Central Government, in respect of Union territories where there are no legislatures, shall incur some expenditure in constitution of Committees there. An annual recurring expenditure of about rupees two lakhs per annum is likely to be involved from the Consolidated Fund of India.

Non-recurring expenditure of about rupees one lakh is likely to be involved.

BILL No. 90 OF 1986

A Bill to provide for the establishment of a Directorate General of Public Grievances for redressal of public grievances and for matters connected therewith.

BE it enacted by Parliament in the Thirty-seventh year of the Republic of India as follows:—

1. (1) This Act may be called the Public Grievances Act, 1986.
- (2) It shall come into force at once.

Short
title and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definition.

(i) “directorate” means the Directorate General of Public Grievances or an Additional Directorate General of Public Grievances as the case may be, established under section 3;

(ii) “Government” means the Central Government;

(iii) “prescribed” means prescribed by rules made under the Act;
and

(iv) “public grievance” means and includes any complaint made orally or in writing under this Act by any person against another person employed with the Government or against any department/

office of the Government situated throughout the country, alleging illegality, favouritism, nepotism, bribery, corruption, misbehaviour, mal-functioning or delay.

Establish-
ment of a
Directorate
General of
Public
Griev-
ances.

3. The Government shall, for the purpose of efficient redressal of public grievances, by notification published in the Official Gazette, establish a Directorate General of Public Grievances and such other Additional Directorates General of Public Grievances, as may be required, to hear public grievances with respect to Central Government departments.

Composi-
tion of
Directorate.

4 (1) The Directorate shall consist of a Director and such number of Additional Directors and Assistant Directors, as may be prescribed, to be nominated by the Government.

(2) The Directorate shall also consist of such other officers and staff to be appointed by the Government.

Powers,
duties of
Directorate,
and
disposal.

5. (1) The Directorate established under section 3, shall, *inter alia* have the following powers and duties, namely:—

(i) to admit any complaint made to it by any person;

(ii) to summon the respective parties to appear and to produce documents and statements of facts and shall have power to summon parties and compel production of documents giving information to the Directorate under the Code of Civil Procedure, 1908;

5 of 1908.

(iii) to record evidence and oral statements of parties to the complaints; and

(iv) to record agreements or settlements arrived at between the parties to the complaints.

(2) The Directorate while hearing the public grievance, shall give full opportunity to the parties to the complaint, to be heard in accordance with the principles of equity and the parties to the complaint shall have a right to be represented through their representatives.

(3) The Directorate shall, within three months from the date of receipt of complaint, dispose of the complaint.

Power to
make
rules.

6. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualification, tenure, etc. of the Directors, Additional Directors and Assistant Directors;

(b) the procedure for receiving, hearing and disposing of, of public grievances;

(c) the number of Additional Directors and Assistant Directors to be nominated; and

(d) the salaries, allowances etc. of Directors, Additional Directors and Assistant Directors.

STATEMENT OF OBJECTS AND REASONS

In view of multiple problems faced by people with respect to their matters in relation to the Central Government departments, a need is felt for establishing an independent machinery to deal with public grievances.

The Government, in fact, have already established Public Grievance Cells in a number of their departments. But, nature and scope of such cells in the absence of a statute to govern such cells cannot be conceived properly.

Besides, authority of the present cells, they being a part and parcel of their respective departments, cannot invoke confidence in the public.

People require an independent machinery to whom they can approach with their grievances.

No doubt we have a police machinery armed with powers under Prevention of Corruption Act, 1947 and India Penal Code, 1860, to deal with corruption cases. But, even to activate the police force to book the offenders a machinery like the one that is proposed to be established under the Bill, is required.

Hence this Bill.

SHANTARAM NAIK

NEW DELHI;
July 9, 1966.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a Directorate General of Public Grievances and such other Additional Directorates as may be required. Clause 4 provides that Directorate shall consist of a Director and other Additional and Assistant Directors to be nominated by the Central Government. It also provides for appointment of officers and staff. The Bill, if enacted, therefore, will involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees ten lakhs is likely to be involved from the Consolidated Fund of India.

Non-recurring expenditure of about rupees five lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Government to make rules to carry out purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

BILL NO. 96 OF 1986

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Thirty-seventh year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1986.

Amend-
ment of
sections
113, 115,
116, 117,
118, 119,
121, 124,
145, 146,
147 and
148.

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), in sections 113, 115, 116, 117, 118, 119, 121, 124, sub-sections (4), (5), (6), (7), (8) and (9) of section 145, section 146, sub-sections (2) and (3) of section 147 and section 148, for the word "Magistrate", wherever it occurs, the words "Judicial Magistrate of the first class" shall be substituted.

2 of 1974

Amend-
ment of
section
123.

3. In section 123 of the principal Act, for the words "District Magistrate, in the case of an order passed by an Executive Magistrate under section 117, or the Chief Judicial Magistrate in any other case", wherever they occur, the words "Chief Judicial Magistrate" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Law relating to Code of Criminal Procedure was amended in 1955 by a Central Act. The amendments in 1955 were intended to simplify procedures and speed up trials and to provide relief to the poor sections of the community. Experience has shown that the separation of Judiciary from the executive has effected in a large measure uniformity in the procedure of law and shortening the period of litigation. Even the restricted powers retained for the executive under the amended Code of Criminal Procedure has defeated the objective of speedy justice. The amendments proposed will help to remedy these defects by further restricting the powers of the executive.

In many cases proceedings are started in a routine fashion without bestowing judicial attention. The power to initiate proceedings may be retained with the Executive Magistrate as guardian of law and order, who should thereafter submit the case records to the nearest Judicial Magistrate of the first class, before whom the concerned parties should appear and the subsequent procedure as laid down in the Code of Criminal Procedure should be adopted. It will ensure speedy disposal of cases and real justice will be done to the parties.

Since the Judicial Courts are expanding very fast there will not be any danger of the courts being overloaded with work.

Hence this Bill.

NEW DELHI;

SOMNATH RATH

July 10, 1986.

SUBHASH C. KASHYAP,
Secretary-General.

